

## Mental Illness and the Law: A Guide for Legal Professionals



Virginia Department of Behavioral Health & Developmental Services (DBHDS)

#### **Module 5:**

#### Mental Health Courts



#### What is a Mental Health Court?

- Mental Health Courts often referred to as "Problem-Solving Courts" or "Specialty Courts"
- Other Problem-Solving Courts include drug courts, family drug courts, veterans courts, or homeless courts

# Characteristics of MH Courts (Problem-Solving Courts)

- Problem solving orientation
- Interdisciplinary collaboration
- A focus on accountability
- Goal of reducing recycling through the justice system of persons with mental illness who can be safely supervised and treated in the community
- Goal of reducing recidivism and increase community participation in community based MH treatment

#### History of Mental Health Courts

- Earliest MH specialty docket was in Marion County, Indiana in 1980
- 1<sup>st</sup> Mental Health Court in Broward County, Florida 1996
- Currently there are 346 adult MH Courts & 51 juvenile MH Courts
- Virginia has 1 MH Court (Norfolk Circuit Court) and 3 MH Dockets (Norfolk GD, Petersburg GD, & Richmond GD)

#### **Common Elements**

- Each court has an eligibility criteria
- Defendant must voluntarily agree to participate.
  Some courts divert defendants prior to trial whereas others provide services post conviction
- Conditions placed on participant to include compliance with treatment, abstinence from substances, and compliance with other conditions
- Periodic appearances in Court required
- Balance of sanctions and rewards

## Essential Elements of a Mental Health Court

- 1. Planning & Administration
- Target Population
- Timely Participant Identification & Linkage to Services
- 4. Terms of Participation
- 5. Informed Choice
- 6. Treatment Supports & Services

#### Essential Elements (cont.)

- 7. Confidentiality
- 8. Court Team
- 9. Monitoring Adherence to Court Requirements
- 10. Sustainability

## Potential Barriers to Development of MH Courts

- Concerns about equal access/ equal protection
- Sixth Amendment Issues (e.g. confrontation of accusers, public proceedings, etc)
- Changes fact-finding function of criminal courts
- Blurs boundaries and redefines roles
- Questions regarding how "voluntary" participation is.
- Informed consent concerns
- Concerns about judicial activism

## Effectiveness of Mental Health Courts

- Research of effectiveness of mental health courts has been collected over the last 12 years
- Both single site research and meta-analyses have been conducted
- Research conducted both by programs themselves and by outside agencies

#### Findings - Crime

- New Charges Participants in MH Courts less likely to receive new charges post participation.
- Length of Time to New Charges For those MH Court participants who did re-offend they did so much later than those who had not participated
- Rate of Arrest Persons who participated in MH
  Court had significant decrease in rate of arrest compared to their rate of arrest prior to participation
- Jail Days MH Court participants had fewer jail days post enrollment than matched controls

### Findings (cont.)

- Reduced recidivism rates for MH Courts was greater than decrease in recidivism for drug courts
  - Drug Courts report recidivism rate of 25%
  - MH Courts report recidivism rates of 10-15%

# Findings – MH Treatment Engagement

- MH Court participants accessed treatment more quickly
- Treatment received by MH Court participants was more intensive
- No relationship between type of treatment and recidivism
- Factors which reduce recidivism not identified but hypothesized to be related to intensive monitoring and strong therapeutic relationships

#### Findings – Cost Savings

- Results are mixed. Some single site studies have reported overall savings (generally realized in 2<sup>nd</sup> year of operation), but meta-analyses did not find consistent savings
- Mixed results may be related to eligibility some MH
  Courts accept those with most severe illnesses

### Research Findings on Norfolk Circuit MH Court

- Completed by Old Dominion University between 2006 – 2007
- Participants reported MH Services and oversight by Court as helpful
- Program participants had greater access to social/ therapeutic services
- Recidivism rate for those who completed program were lower than previously published recidivism rates for offenders with or without mental illness

#### The Norfolk MH Court

- Precipitants to development
- Development phases
- Obstacles/ hurdles
- Keys to success
- Members of the Team
- Types of Services Offered
- Logistics of court

#### Norfolk MH Court (cont)

- Dealing with non-compliance
- Addressing boundary challenges
- Dealing with conflict
- Biggest challenges
- Success stories
- Advice for those considering developing MH Court
- Future plans for the Norfolk MH Court

### The Petersburg MH Docket

- Precipitants to development
- Development phases
- Obstacles/ hurdles
- Keys to success
- Members of the Team
- Types of Services Offered
- Logistics of court

# The Petersburg MH Docket (cont.)

- Dealing with non-compliance
- Addressing boundary challenges
- Dealing with conflict
- Biggest challenges
- Success stories
- Why a docket and not a court?
- Advice for those considering developing MH docket
- Future plans for the Petersburg MH Docket

## Questions/ Discussion